UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 4:04CR34 HEA
	)	
WINSTON GORDON,	)	
	)	
Defendant.	)	

MEMORANDUM AND ORDER

This matter is before the Court on defendant's oral motion for appointment of appellate counsel and motion to proceed *in forma pauperis* on appeal.

At defendant's sentencing, the Court granted counsel for defendant's motion for leave to withdraw. The Court also inquired of defendant regarding his financial condition. Defendant advised the Court that he had no assets from which he could retain counsel. The Court determined in open court that defendant was financially unable to retain counsel. Furthermore, counsel for defendant advised the Court that he thought it would be more appropriate for the Court to appoint new counsel more qualified in appellate practice and more closely geographically located to defendant. Accordingly, the Court did not request counsel to pursue defendant's appeal.

In that the Appellate Court ordinarily appoints counsel on appeal, this Court will

not appoint counsel, rather, the Court will defer to the Appellate Court for ruling on defendant's oral motion for appointment of counsel on appeal.

Accordingly,

IT IS HEREBY ORDERED that defendant's oral motion to proceed *in forma pauperis* on appeal is granted.

IT IS FURTHER ORDERED that defendant's oral motion for appointment of appellate counsel is submitted to the Appellate Court for determination.

Dated this 7th day of November, 2006.

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HENRY EDWARD AUTREY
UNITED STATES DISTRICT JUDGE